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October 5, 2009

**VIA ELECTRONIC FILING & ABC LEGAL MESSENGER**

David Danner  
Executive Director and Secretary  
Washington Utilities & Transportation Commission  
1300 S. Evergreen Pk. Dr. S.W.  
P. O. Box 47250  
Olympia, WA 98504-7250

Re: Washington Utilities and Transportation Commission v. Puget Sound Energy  
Docket Nos. UE-090704 and UG-090705

Dear Mr. Danner:

Enclosed please find the original and sixteen (16) copies of Public Counsel's Answer to PSE's Motion For Leave to File Supplemental Testimony, for filing in the above-entitled docket.

Sincerely,

Simon J. Ffitch  
Senior Assistant Attorney General  
Public Counsel  
(206) 389-2055

SJf:mh

Enclosures

cc: Service List (First Class Mail & E-mail)

**BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION  
COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

Puget Sound Energy, Inc.,

Respondent.

DOCKET NO. UE-090704

and

DOCKET NO. UG-090705  
(consolidated)

PUBLIC COUNSEL ANSWER TO  
PSE'S MOTION FOR LEAVE TO  
FILE SUPPLEMENTAL  
TESTIMONY

**I. ANSWER**

1. The Public Counsel Section of the Washington State Attorney General's Office (Public Counsel) files this answer in opposition to Puget Sound Energy, Inc.'s (PSE or the Company) Motion For Leave To File Supplemental Testimony and Exhibits in this proceeding, dated September 28, 2009 (PSE Motion). Public Counsel respectfully requests that the Motion be denied.

**II. MEMORANDUM**

**A. Procedural History**

2. On May 8, 2009, PSE filed with the Washington Utilities and Transportation Commission (Commission) to increase its rates for electric and gas service by \$148.1 million and \$27.2 million respectively. The Commission suspended the tariffs and set them for hearing.<sup>1</sup> On

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<sup>1</sup> Complaint and Order Suspending Tariff Revisions (Order 01).

August 3, 2009, PSE filed a Motion for Leave to File Supplemental and Revised Testimony and Exhibits that increased its revenue requirement for gas service to \$30.4 million. Public Counsel opposed the motion. The Commission granted the request.<sup>2</sup> On August 25, 2009, PSE again moved to revise its testimony.<sup>3</sup> Public Counsel did not oppose this second motion because it did not propose changing the revenue requirement amounts.<sup>4</sup>

3. On September 28, 2008, PSE filed a third Motion For Leave To File Supplemental Testimony and Exhibits (Motion). Through this supplemental testimony, PSE seeks to support a higher electric revenue requirement of \$153.9 million, a \$5.8 million increase from its original filing, and a gas revenue requirement of \$29.5 million, a \$2.3 million increase from the original filing.<sup>5</sup> Like its first motion regarding gas revenue, PSE has not revised its tariff filing and does not expressly request additional rate relief beyond the initially filed amounts. PSE does not represent or provide any evidence that notice has been given of the changed revenue requirement requests. PSE does not agree in this motion to extend the procedural schedule to comply with the statutory time period allowed for the review of rate requests.

**B. PSE's Request To Supplement Its Filed Case Effectively Increasing Its Requested Revenue Is Prohibited By Commission Rule And Washington Statute.**

4. Public Counsel's opposition to PSE's most recent motion is grounded upon the same arguments set forth in response to PSE's August 3 motion to increase its gas revenue requirement. The arguments regarding statutory tariff and notice requirements set forth in the

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<sup>2</sup> Order 06, Granting Leave to File Supplemental and Revised Testimony and Exhibits.

<sup>3</sup> Puget Sound Energy, Inc.'s Motion for Leave to File Supplemental Testimony (filed August 25, 2009).

<sup>4</sup> See Response to PSE Motion to Supplement Testimony of James Elsea (dated September 1, 2009).

<sup>5</sup> The gas revenue requirement supported by the latest supplemental testimony represents a \$.9 million decrease from that presented in the first set of supplemental testimony filed on August 3, 2009.

Public Counsel Answer to PSE Motion for Leave to File Supplemental and Revised Testimony and Exhibits, dated August 10, 2009, are likewise applicable to PSE's most recent request.

They will not be repeated here, but are incorporated herein by this reference.

5. By this motion, PSE further exacerbates the already ephemeral nature of its revenue requirement requests in this case. Neither the tariffs, nor the notice provided earlier pursuant to statutory requirements, accurately reflect PSE's actual gas and electric revenue request as it stands now. Any party who made a decision not to intervene in this matter based on the lower amount the original filing has no notice of these new requests and has missed the opportunity to participate and address the modified case. With respect to the Commission and the existing parties, the timing of the filing unlawfully and significantly truncates the statutory 10 month period allowed for the review of general rate filings. Only about six weeks remain before Public Counsel and other parties must file responsive testimony in the case.
6. PSE proposes to file six pieces of supplemental direct testimony, eleven revised exhibits, as well as accompanying workpapers, updating the testimony of Company witnesses Story, Mills, Gaines, Hoff, Odom, and Riding. The supplemental filing is substantial and wide ranging and addresses many of the key components of the case. As described by PSE, the filing:
- Updates PSE's load forecast to reflect significant change in the economic data;
  - Revises the cost of long term debt and rate of return to reflect a recently completed bond issuance;
  - Corrects certain pro forma and restating adjustments from the original filing; and
  - Updates various adjustments based on more recent information.<sup>6</sup>

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<sup>6</sup> PSE Motion, ¶ 2.

PSE represents that parties will not be surprised or disadvantaged by this filing. Public Counsel does not agree with that assessment. PSE's initial statement that it might update its testimony later in the case does not provide the Company *carte blanche* to later modify its filings at will or to disregard the notice and tariff requirements of Washington statutes and rules.

7. On power costs, for example, the Company suggests that the new baseline power forecast is merely a mechanical and routine update. Public Counsel's initial analysis, however, identifies factors in the forecast that appear counterintuitive and serve to inflate PSE's system fuel expenses. For example, the updated forecast reflects a nearly 50 percent reduction in market purchases of natural gas, even though the price of market purchases remains well below the forecasted price of natural gas-fired generation and other sources on PSE's system. Forecasted purchases from more costly resources such as Tenaska experience large increases. There appears to be little explanation for changes such as the significantly lower purchase of hydro as compared with the original forecast, and no apparent logical linkage between the changes PSE identifies and the changes in gas price or the forecasted reduction in system energy requirements. Pursuing these issues adequately through discovery would require more time than the current schedule allows, highlighting the truncation of the statutory timeline caused by PSE's approach.

8. PSE's modified load forecast is also significantly different than its original filing. PSE now predicts that load will be lower than the test year, rather than higher as originally forecast. PSE's describes three major modifications to its load forecast in the supplemental testimony of Donald Gaines, Exhibit No. \_\_\_\_ (DEG-9T), p. 8: updating the service territory economic-demographic models and revising its economic forecast; recalibration of its load forecast based on updated historical load per customer and customer counts through March 2009; and the

increased estimated impact of conservation. None of these modifications are merely mechanical in nature and are based in significant part on PSE's own analysis, data, and modeling.

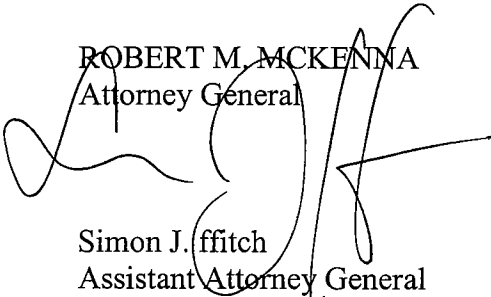
Analysis of the econometric data relied upon, and its use by PSE in this case, is a complex and resource intensive effort. The existing schedule does not allow adequate time for Public Counsel to conduct discovery and analyze PSE's modified load forecast for accuracy. Again on this issue, by not filing new tariffs and hence reducing the time provided by law for review of new revenue requests, PSE's supplemental filing prejudices and disadvantages Public Counsel in this case.

### III. CONCLUSION

9. For the foregoing reasons, Public Counsel respectfully requests that PSE's Motion be denied. PSE is free to request additional revenue for its gas and electric service beyond that contained in its original tariff filing and notice, but it must do so by filing new tariffs and by providing notice of the increase in its request, as required by statute.

Dated this 5<sup>th</sup> day of October, 2009.

ROBERT M. MCKENNA  
Attorney General



Simon J. ffitch  
Assistant Attorney General  
Public Counsel

**CERTIFICATE OF SERVICE**  
**Docket No. UE-090704, UG-090705**

I hereby certify that a true and correct copy of Public Counsel Answer to PSE's Motion For Leave To File Supplemental Testimony was sent to each of the parties of record shown on the attached Service List in sealed envelopes, via:

- First class mail, postage prepaid
- Facsimile transmission
- UPS Two-Day Air, freight prepaid
- Federal Express, freight prepaid

DATED: October 5, 2009.

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MARY HARPER, Legal Assistant

**Docket Nos. UE-090704 & UG-090705  
PSE GRC 2009**

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